

MONTANA LEGISLATIVE HISTORY

Chapter 11 19 52

Bill H _____ S 30

Original bill & history ☒ C

H. Committee on State Admin.

Hearing Date(s) Jan 30 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Legislative Admin.

Hearing Date(s) Jan 13 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

4/16 SIGNED BY SPEAKER
 4/16 TRANSMITTED TO GOVERNOR
 4/25 SIGNED BY GOVERNOR
 CHAPTER NUMBER 388
 EFFECTIVE DATE: 07/01/97

SB 29 INTRODUCED BY SWYSGOOD *LC0172 DRAFTER: ERICKSON*

REVISE THE MOTOR CARRIER LAWS
 BY REQUEST OF DEPARTMENT OF TRANSPORTATION

12/19	INTRODUCED		
12/30	FISCAL NOTE REQUESTED		
1/03	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/06	FIRST READING		
1/09	FISCAL NOTE RECEIVED		
1/13	FISCAL NOTE PRINTED		
1/14	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	48	0
1/25	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
1/27	FIRST READING		
1/27	REFERRED TO TRANSPORTATION		
2/12	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	93	7
4/04	3RD READING CONCURRED	93	6
	RETURNED TO SENATE		
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/09	TRANSMITTED TO GOVERNOR		
4/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 232		
	EFFECTIVE DATE: 01/01/98		

SB 30  INTRODUCED BY LYNCH *LC0138 DRAFTER: PETESCH*

ELIMINATE THE REQUIREMENT THAT A STATEMENT OF LEGISLATIVE
 INTENT BE INCLUDED IN A BILL DELEGATING RULEMAKING AUTHORITY
 TO AN AGENCY

BY REQUEST OF LEGISLATIVE COUNCIL

12/19	INTRODUCED		
1/03	REFERRED TO LEGISLATIVE ADMINISTRATION		
1/06	FIRST READING		
1/13	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED		
1/15	2ND READING PASSED AS AMENDED	49	0
1/16	3RD READING PASSED	43	6
	TRANSMITTED TO HOUSE		
1/17	FIRST READING		
1/17	REFERRED TO STATE ADMINISTRATION		
1/30	HEARING		
1/30	COMMITTEE REPORT—BILL CONCURRED		
2/01	2ND READING CONCURRED	97	0
2/03	3RD READING CONCURRED	97	2
	RETURNED TO SENATE		
2/05	SIGNED BY PRESIDENT		
2/05	SIGNED BY SPEAKER		

2/06 TRANSMITTED TO GOVERNOR
 2/07 SIGNED BY GOVERNOR
 CHAPTER NUMBER 11
 EFFECTIVE DATE: 02/07/97

SB 31 INTRODUCED BY JENKINS *LC0307 DRAFTER: MACMASTER*

PROVIDE FOR CHEMICAL TREATMENT OF CERTAIN SEX OFFENDERS

12/19	INTRODUCED		
12/30	FISCAL NOTE REQUESTED		
1/03	REFERRED TO JUDICIARY		
1/06	FIRST READING		
1/13	HEARING		
1/13	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	REFERRED TO JUDICIARY		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED	37	11
1/31	3RD READING PASSED	37	12
TRANSMITTED TO HOUSE			
2/01	FIRST READING		
2/01	REFERRED TO JUDICIARY		
3/06	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/14	2ND READING CONCURRED	89	10
3/15	3RD READING CONCURRED	85	13
RETURNED TO SENATE			
3/20	SIGNED BY PRESIDENT		
3/20	SIGNED BY SPEAKER		
3/21	TRANSMITTED TO GOVERNOR		
3/31	RETURNED TO SENATE WITH GOVERNOR'S PROPOSED AMENDMENTS		
4/03	REVISED FISCAL NOTE REQUESTED		
4/03	REVISED FISCAL NOTE RECEIVED		
4/07	2ND READING GOVERNOR'S PROPOSED AMENDMENTS NOT CONCURRED	34	15
4/07	REVISED FISCAL NOTE PRINTED		
HOUSE			
4/08	2ND READING GOVERNOR'S PROPOSED AMENDMENTS NOT CONCURRED	91	9
4/09	TRANSMITTED TO GOVERNOR FOR RECONSIDERATION		
4/18	VETOED		
4/19	VETO OVERRIDDEN BY SENATE	35	15
4/19	VETO OVERRIDDEN BY HOUSE	78	16
CHAPTER NUMBER 334			
EFFECTIVE DATE: 10/01/97			

SB 32 INTRODUCED BY HALLIGAN *LC0367 DRAFTER: STERNBERG*

ALLOW A PARTY, AS A PART OF A MOTION FOR TEMPORARY MAINTENANCE OR SUPPORT OR BY INDEPENDENT MOTION, TO REQUEST A TEMPORARY RESTRAINING ORDER PROVIDING THAT INSURANCE COVERAGE NOT BE MODIFIED

12/19 INTRODUCED
 12/30 FISCAL NOTE REQUESTED
 1/03 REFERRED TO JUDICIARY
 1/06 FIRST READING
 1/09 HEARING
 1/09 FISCAL NOTE RECEIVED

SENATE BILL NO. 30

INTRODUCED BY LYNCH

BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A STATEMENT OF LEGISLATIVE INTENT BE INCLUDED IN A BILL DELEGATING RULEMAKING AUTHORITY TO AN AGENCY; AMENDING SECTION 17-7-138, MCA; REPEALING SECTIONS 5-4-401, 5-4-402, 5-4-403, AND 5-4-404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-7-138, MCA, is amended to read:

"17-7-138. Operating budget. (1) Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law ~~and any statement of intent adopted as part of a bill.~~

(2) The expenditure of money appropriated in the general appropriations act to the university system units, as defined in 17-7-102, is contingent upon approval of an operating budget by October 1 of each fiscal year. All other requirements in this section apply to the university system.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms used for changing an operating budget must reference the current, complete, and approved operating budget, show the proposed changes to the operating budget, and reference any other pending documents to change the operating budget."

1 NEW SECTION. Section 2. **Repealer.** Sections 5-4-401, 5-4-402, 5-4-403, and 5-4-404, MCA,
2 are repealed.

3

4 NEW SECTION. Section 3. **Effective date.** [This act] is effective on passage and approval.

5

-END-

practicable to govern the military forces of this state, including all members of the national guard on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved February 7, 1997

CHAPTER NO. 11

[SB 30]

AN ACT ELIMINATING THE REQUIREMENT THAT A STATEMENT OF LEGISLATIVE INTENT BE INCLUDED IN A BILL DELEGATING RULEMAKING AUTHORITY TO AN AGENCY; REQUIRING STATUTES DELEGATING RULEMAKING AUTHORITY TO PROVIDE SPECIFIC GUIDELINES; AMENDING SECTION 17-7-138, MCA; REPEALING SECTIONS 5-4-401, 5-4-402, 5-4-403, AND 5-4-404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-138, MCA, is amended to read:

"17-7-138. Operating budget. (1) Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law ~~and any statement of intent adopted as part of a bill.~~

(2) The expenditure of money appropriated in the general appropriations act to the university system units, as defined in 17-7-102, is contingent upon approval of an operating budget by October 1 of each fiscal year. All other requirements in this section apply to the university system.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms used for changing an operating budget must reference the current, complete, and approved operating budget, show the proposed changes to the operating budget, and reference any other pending documents to change the operating budget."

Section 2. Rulemaking authority. A statute delegating rulemaking authority to an agency must contain specific guidelines describing for the agency and the public what the rules may and may not contain.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 5, chapter 4, part 1, and the provisions of Title 5, chapter 4, part 1, apply to [section 2].

Section 4. Repealer. Sections 5-4-401, 5-4-402, 5-4-403, and 5-4-404, MCA, are repealed.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved February 7, 1997

CHAPTER NO. 12

[SB 161]

AN ACT PROVIDING THAT AN ADMINISTRATIVE WARRANT ISSUED TO A PAWNBROKER OR DEALER TO SURRENDER STOLEN PROPERTY SHALL BE ISSUED BY THE ADMINISTRATIVE HEAD OF THE INVESTIGATING AGENCY; AND AMENDING SECTION 46-5-212, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-5-212, MCA, is amended to read:

“46-5-212. Pawnbroker to surrender stolen property — warrant. (1) When a peace officer informs a pawnbroker or dealer who buys and sells secondhand merchandise that property pawned to or purchased by the pawnbroker or dealer is stolen property, as defined in 45-2-101, the pawnbroker or dealer who buys and sells secondhand merchandise shall hold the property for 30 days upon issuance of an administrative warrant by a peace officer. Following the expiration of the 30-day period, the pawnbroker or dealer shall surrender the property to the peace officer upon demand. The peace officer shall give the pawnbroker or dealer a receipt for any property surrendered by the pawnbroker or dealer. During the 30-day period, the pawnbroker or dealer may appeal the validity of the administrative warrant in justice’s court or *in* municipal court.

(2) As used in this section, “administrative warrant” means a warrant:

(a) issued by the ~~chief law enforcement officer~~ *administrative head, or the administrative head’s designee, of the investigating agency* of the jurisdiction;

(b) that describes the property to be held; and

(c) that states that the pawnbroker *or dealer* shall hold the property for 30 days from the date of receipt.”

Approved February 7, 1997

Ms. Heffelfinger. In the draft we were attempting to tie the fiscal note to the guidelines. The cost estimates may be based on the guidelines which were articulated there because many times when you receive the fiscal note you receive the overall program cost. The intent was to identify what it would cost if we could fund it.

Closing by Sponsor: SEN. BROOKE closed by saying, the evaluations would cut down the work for the State Auditor because when they go in to start their audits, these evaluations would move them further ahead. In order to continue various programs that are doubtful, the agencies need to have the evaluations to see if they are meeting their goals. This bill encourages state agencies to present outcome data and evaluations strategies. It will prevent further social problems. New programs are being developed and new data is needed to know whether or not to keep the programs going.

HEARING ON SB 30

Sponsor: SEN. J.D. LYNCH, Senate District 19, Butte

Proponents: None

Opponents: None

Opening Statement by Sponsor: SEN. J.D. LYNCH, Senate District 19, Butte The bill is at the request of the Legislative Council. This bill would eliminate the requirement statement of intent bills.

Informational Testimony: Greg Petesch, Director of Legal Services for the Legislative Services Division. The bill came from the Legislative Improvement Subcommittee, that was created by the Legislative Council last interim. The bill would reduce costs because it would no longer require statements of intent on all bills delegating rule-making authority. The bill would require the Legislature to put in the law, rather than in a piece of advice to an agency, what the Legislature intended the rules to entail. The subcommittee believed that the Legislature would be better served by addressing the delegation of authority in the law itself. The committee was given various examples of instances where the legislature amended the bill and overlooked the statement of intent. So you had the law allowing the agency to adopt rules in conflict with the intent of what the agency was supposed to carry out as expressed in the statement of intent. It would eliminate the requirement that a bill contain that new rule making authority. The bill is primarily a repealer. The bill makes the legislature focus on the delegation of authority.

Questions From Committee Members and Responses: SEN. MIKE FOSTER asked Mr. Petesch, would the statement of intent become part of the statute?

Mr. Petesch, responded to the question by saying, that is correct. In adopting and administering rules there are two requirements that the rules must have, they have to be specifically authorized by a statute and the rules have to implement a specific section and the rule has to cite the section of law being implemented when the rules are adopted. The thought of the subcommittee was that when the legislature says the agency may adopt rules, that is the place for the legislature to tell the agency what they may or may not do in adopting rules rather than something that has no course of effective law. That way agencies are bound and cannot adopt a rule that will contradict the delegation of authority to it or the statute being implemented because the rules may not conflict with the statute and the rules may not add something not contemplated by the legislature to a statute. Those are two of the tenants of administrative law. The thought was that if you focus the intention of the statute on the statute itself rather than something that has no course of effective law you're going to get better drafted guidelines for the agency within which they are able to act.

SEN. CRIPPEN to Mr. Petesch, how would this bill affect legislation that is now before the legislature and has the statement of intent?

Mr. Petesch This bill has prospective effect. During the current session they are acting as if the old law is still in effect. This committee should peruse some of the statements of intent to see how effective they are. A lot of statements of intent are a waste of paper. The legislature needs to tell the agencies what they may or may not do.

Closing by Sponsor: SEN. LYNCH I close.

EXECUTIVE ACTION ON SB 30

Amendments: N/A

Motion/Vote: SEN. CRIPPEN moved that SB 30 Do Pass. Motion carried unanimously.

EXECUTIVE ACTION ON SB 93

Motion/Vote: SEN. SWYSGOOD MOVED TO TABLE SB 93. The committee VOTED 3-2 IN FAVOR OF TABLING the bill. SEN. BARTLETT and SEN. LYNCH both voted no.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MATT DENNY**, on January 30, 1997, at 9:00 a.m., in room 420.

ROLL CALL

Members Present:

Rep. Matt Denny, Chairman (R)
Rep. Matt Brainard, Vice Chairman (Majority) (R)
Rep. Antoinette R. Hagener, Vice Chairman (Minority) (D)
Rep. Darrel Adams (R)
Rep. Haley Beaudry (R)
Rep. Tim Dowell (D)
Rep. Harriet Hayne (R)
Rep. George Heavy Runner (D)
Rep. Sam Kitzenberg (R)
Rep. Norm Mills (R)
Rep. Doug Mood (R)
Rep. William Rehbein, Jr. (R)
Rep. Trudi Schmidt (D)
Rep. Dorothy C. Simpson (D)
Rep. Allan Walters (R)
Rep. Bill Whitehead (D)

Members Excused: Rep. Matt Brainard and Rep. Doug Mood.

Members Absent: None

Staff Present: Sheri Heffelfinger, Legislative Services Division
Keri Burkhardt, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 174, SB 30; (1/22/97)
Executive Action: SB 30

HEARING ON SB 30

Opening Statement by Sponsor: SEN. J.D. LYNCH, S.D. 19.
{Tape: 1; Side: a; Approx. Time Count: .9; Comments: None.}

Closing by Sponsor: SEN. LYNCH closes.
{Tape: 1; Side: a; Approx. Time Count: 3.2; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 32.7 through 15.5 (1/b);
Comments: None.}

Closing by Sponsor: REP. SMITH closes.

{Tape: 1; Side: b; Approx. Time Count: 15.5 through 22.7;
Comments: None.}

EXECUTIVE ACTION ON SB 30

Motion/Vote: REP. MILLS MOVED TO BE CONCURRED IN SB 30/ Motion
carried 13-0.

{Tape: 1; Side: b; Approx. Time Count: 25.9; Comments: None.}